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6 Attorneys for Plaintiff
7 UNITED STATES OF AMERICA

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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,) CASE NO. 07CR2881-JLS
12)
13 Plaintiff,) DATE: November 16, 2007
TIME: 9:30 a.m.
14)
15 v.) STATEMENT OF FACTS AND MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT OF
GOVERNMENT'S MOTION FOR RECIPROCAL
16 EDUARDO RAMIREZ,) DISCOVERY
17)
18 Defendant.)
19)

20 COMES NOW, the plaintiff, UNITED STATES OF AMERICA, by and
21 through its counsel, KAREN P. HEWITT, United States Attorney, and
22 Peter J. Mazza, Assistant United States Attorney, hereby files the
23 attached statement of facts and memorandum of points and authorities
24 in support of Government's motion for reciprocal discovery.

25 I

26 STATEMENT OF THE CASE

27 On October 16, 2007, a grand jury sitting in the Southern
28 District of California returned a two-count Indictment against

07CR2881-JLS

1 Defendant, charging him with importation of cocaine into the United
2 States from a place outside thereof, in violation of 21 U.S.C. §§ 952
3 and 960, and possession of cocaine with the intent to distribute, in
4 violation of 21 U.S.C. § 841(a)(1). On October 17, 2007, Defendant
5 was arraigned on the Indictment.

6 **II**

7 **STATEMENT OF FACTS**

8 **A. THE INSTANT OFFENSE**

9 On October 4, 2007, at approximately 10:45 a.m., Defendant
10 entered the Calexico, California West Port of Entry as the driver and
11 sole occupant of a 2006 Chevrolet Monte Carlo bearing California
12 license plate number 5ZDF551. At the primary inspection area,
13 Customs and Border Protection Officer (CBPO) P. Morales was referring
14 vehicles to the secondary lot for x-ray examination. CBPO Morales
15 noticed Defendant's vehicle attempting to pass several vehicles in
16 front of it while waiting in line. CBPO Morales referred Defendant
17 and his vehicle to secondary inspection.

18 At the secondary inspection area, CBPO M. Hernandez performed
19 an x-ray examination on Defendant's vehicle. The examination
20 revealed anomalies under the rear seat. Defendant gave the officers
21 a negative customs declaration. He further stated that the vehicle
22 belonged to him and he was on his way to his home in Calexico,
23 California. CBPO Morales noticed that Defendant's hands were shaking
24 while he spoke, and that he continually attempted to drink from an
25 empty soda bottle. Also while in secondary, a human/narcotic
26 detector dog alerted positively to the driver's side exterior of the
27 vehicle.

1 A further search of the vehicle revealed several packages in a
2 non-factory built compartment located under the rear seat. One of
3 the packages was probed and field tested, which returned a positive
4 indication for cocaine. A total of 65 packages were removed from the
5 vehicle, totaling 76.12 kilograms (167.46 pounds) of cocaine.
6 Officers placed Defendant under arrest, and notified Immigration and
7 Custom Enforcement (ICE) Special Agents Thomas Behm and Russell
8 Vensk.

9 At approximately 3:26 p.m., Agents Behm and Vensk advised
10 Defendant of his Miranda rights, which he waived. He informed agents
11 that he had owned the vehicle since April of 2007. Ramirez stated
12 that he knew that his vehicle contained some kind of contraband,
13 although he thought it was marijuana. He informed agents that he was
14 going to be paid \$3,000 to drive the vehicle to Los Angeles and would
15 receive additional instructions via cell phone at that time. He
16 stated that he had met an individual he knew only as "Chavo"
17 approximately three weeks prior to his arrest at a family gathering
18 in Mexicali, Mexico. He said that "Chavo" introduced him to an
19 individual named "Turi" who offered him the smuggling job. Defendant
20 stated that he had given his vehicle to a man named Jose Luis Garcia
21 a week prior to his arrest for four or five hours. Defendant stated
22 that Garcia informed him that they were taking the car to determine
23 where they could hide the contraband. Defendant stated that Garcia
24 took the vehicle a second time earlier in the day of the offense for
25 approximately one hour.

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III

GOVERNMENT'S MOTIONSA. MOTION FOR RECIPROCAL DISCOVERY1. RULE 16(b)

The United States, pursuant to Rule 16 of the Federal Rules of Criminal Procedure, requests that Defendant permit the United States to inspect, copy, and photograph any and all books, papers, documents, photographs, tangible objects, or make copies of portions thereof, which are within the possession, custody or control of Defendant and which Defendant intends to introduce as evidence in his case-in-chief at trial.

The United States further requests that it be permitted to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, which are in the possession or control of Defendant, which Defendant intends to introduce as evidence-in-chief at the trial, or which were prepared by a witness whom Defendant intends to call as a witness. Because the United States has complied with Defendant's request for delivery of reports of examinations, the United States is entitled to the items listed above under Rule 16(b)(1) of the Federal Rules of Criminal Procedure. The United States also requests that the Court make such order as it deems necessary under Rules 16(d)(1) and (2) to ensure that the United States receives the discovery to which it is entitled.

2. RULE 26.2

Rule 26.2 of the Federal Rules of Criminal Procedure requires the production of prior statements of all witnesses, except a

1 statement made by Defendant. This rule thus provides for the
2 reciprocal production of Jencks statements.

3 The time frame established by the rule requires the statement
4 to be provided after the witness has testified. To expedite trial
5 proceedings, the United States hereby requests that Defendant be
6 ordered to supply all prior statements of defense witnesses by a
7 reasonable date before trial to be set by the Court. Such an order
8 should include any form in which these statements are memorialized,
9 including but not limited to, tape recordings, handwritten or typed
10 notes and/or reports.

11 **IV**

12 **CONCLUSION**

13 For the foregoing reasons, the United States requests that the
14 Government's Motions be granted.

15 DATED: November 9, 2007.

16 Respectfully Submitted,

17 KAREN P. HEWITT
18 United States Attorney

19 /s/ Peter J. Mazza
20 PETER J. MAZZA
21 Assistant U.S. Attorney
22 Peter.Mazza@usdoj.gov
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No. 07CR2881-JLS
)
Plaintiff,)
)
v.)
)
EDUARDO RAMIREZ,)
)
Defendant.)

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, PETER J. MAZZA, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of GOVERNMENT'S NOTICE OF MOTIONS AND MOTIONS FOR RECIPROCAL DISCOVERY on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

1. Maxine I. Dobro

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 9, 2007.

/s/ Peter J. Mazza
PETER J. MAZZA